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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ROBERT DUENAS,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

Case No. LA CV 14-1220 AB (JCG)

**ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE AND
DENYING CERTIFICATE OF
APPEALABILITY AND EVIDENTIARY
HEARING**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge's Report and Recommendation, and the remaining record, and has made a *de novo* determination. No objections to the Report and Recommendation have been filed.

Accordingly, IT IS ORDERED THAT:

1. The Report and Recommendation is approved and accepted;
2. Judgment be entered denying the Petition and dismissing this action with prejudice; and
3. The Clerk serve copies of this Order on the parties.

Additionally, for the reasons stated in the Report and Recommendation, the Court finds that Petitioner has not made a substantial showing of the denial of a

1 constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v.*
2 *Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate of
3 appealability.

4 Nor is Petitioner entitled to an evidentiary hearing. *See Cullen v. Pinholster*,
5 131 S. Ct. 1388, 1398 (2011) (AEDPA “requires an examination of the state court-
6 decision at the time it was made. It follows that the record under review is limited to
7 the record in existence at that same time *i.e.*, the record before the state court.”).

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9 DATED: February 1, 2016



HON. ANDRÉ BIROTTE JR.
UNITED STATES DISTRICT JUDGE